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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,994	08/28/2003	Koji Takahashi	011118A	6035
23850	7590	12/28/2004	EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			KEBEDE, BROOK	
			ART UNIT	PAPER NUMBER
			2823	

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/649,994

Applicant(s)

TAKAHASHI, KOJI

Examiner

Brook Kebede

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2004.
 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-11, 14 and 19-21 is/are pending in the application.
 4a) Of the above claim(s) 14 and 19-21 is/are withdrawn from consideration.
 5) ☒ Claim(s) 8-11 is/are allowed.
 6) ☐ Claim(s) _____ is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/973,743.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 8/28/03; 7/17/04.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date: _____
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I (i.e., claims 8-11) in the reply filed on October 20, 2004 is acknowledged.
2. Claims 14 and 19-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 20, 2004.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/973,743, filed on October 11, 2001.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "forming two layers of gate insulating film," as recited in claim 8, and "forming three layers of a gate insulating film," as recited in claim 10, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure

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must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Allowable Subject Matter

5. Claims 8-11 are allowed over prior art of record.

Reasons for Allowance

6. The following is an examiner's statement of reasons for allowance:

The prior art of record neither anticipates nor renders obvious the claimed subject matter of the instant application as a whole either taken alone or in combination, in particular, prior art of record does not teach "etching the lamination film at least to a bottom of the middle layer in an area are not covered with the sidewall spacers; forming a first insulating film by locally oxidizing the surface of the semiconductor substrate not covered with the gate electrode and the side wall spacer; removing an insulating film formed on an upper surface of the gate electrode and on the surface of the sidewall spacer," as recited on claim 8, and "forming a gate electrode and a gate upper film on a partial area of a surface of a semiconductor substrate; forming a lamination film of a lower layer, a middle layer and an upper layer, the lower layer covering exposed surfaces of at least the semiconductor substrate, gate insulating film and gate electrode,

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the middle layer covering surfaces of the lower layer and gate upper film, the upper layer covering the middle layer; forming a second film of insulating material on or over a whole surface of the semiconductor substrate; polishing the second film until the gate upper film is exposed; removing the gate upper film and the lamination film left on the side wall of the gate upper film,” as recited in claim 10.

Claims 9 and 11 are also allowed as being dependent of the allowed independent base claim.

Re claims 9 and 11, Sakagami et al. disclose method of fabricating semiconductor device the method includes three gate insulating layers and a triple lamination films composed of oxide/nitride/oxide and conductive sidewall spacer. However, Sakagami et al. do not specifically disclose the aforementioned process steps that is set forth for reasons of allowance.

Yoshikawa (US/6,335,554) also discloses similar inventive steps but Yoshikawa does not teach the critical process steps that are stated above for the reasons of allowance.

Conclusion

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

8. This application is in condition for allowance except for the following formal matters:

The formal matters that are set forth in Paragraph 4 above should be addressed by the applicant prior passing the instant application for issue.

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Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.


Correspondence

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brook Kebede whose telephone number is (571) 272-1862. The examiner can normally be reached on 8-5 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on (571) 272-1855. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BK
December 23, 2004


George Fourson
Primary Examiner